

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN MONTUE,

Petitioner,

No. CIV S-04-1697 FCD JFM P

vs.

MIKE KNOWLES, et al.,

Respondents.

ORDER

Petitioner is a state prisoner proceeding through counsel with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges a March 13, 2002 decision of the California Board of Prison Terms (Board) to deny petitioner a parole date.

On August 9, 2005, respondents filed a motion to dismiss this action. Respondents' motion was predicated on Sass v. California Board of Prison Terms, 376 F.Supp.2d 975 (E.D.Cal. 2005), rev'd, 481 F.3d 1123 (9th Cir. 2006). By order filed February 21, 2006, respondents' motion to dismiss was denied without prejudice to its renewal, as appropriate, not later than thirty days after any decision the United States Court of Appeals for the Ninth Circuit in Sass, file, as appropriate, either a renewed motion to dismiss or an answer to the petition. The court of appeals issued its decision in Sass on August 31, 2006 and respondents have not filed anything further in this action.

1 Review of the record shows that respondents filed an answer to the petition in
2 February 2005 and that petitioner, then proceeding pro se, filed a traverse on March 10, 2005.

3 Good cause appearing, IT IS HEREBY ORDERED that:

4 1. Petitioner is granted thirty days from the date of this order to file either
5 supplemental points and authorities in support of the petition or a notice of intent to rest on
6 pleadings on file;

7 2. If petitioner files supplemental points and authorities, respondents shall have
8 thirty days thereafter in which to file a response to the supplemental points and authorities and
9 petitioner shall have ten days thereafter to file a closing brief;

10 3. If petitioner files a notice of intent to rest on the pleadings on file, the matter
11 will be submitted as of the date of said notice.

12 DATED: February 21, 2007.

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15 UNITED STATES MAGISTRATE JUDGE

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